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SEP 19 2008

In re Application of :  
Balzer et al. :  
Application No. 10/826,584 :  
Filed: April 16, 2004 :  
Attorney Docket No. 2004-001 :  
ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed May 22, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to respond to the non-Final Office action mailed September 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 13, 2007. A Notice of Abandonment was mailed March 31, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D).

The instant petition lacks item(s) (3). The statement required in item (3) has not been signed by all of the applicants for patent, an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71, or a patent attorney or patent agent registered to practice before the office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. For a power of attorney to be valid, the attorney or agent appointed must be registered to practice before the U.S. Patent and Trademark Office in accordance with 37 CFR 11.6. It appears the person signing the petition is neither registered to practice before the U.S. Patent and Trademark Office in patent matters nor named as an inventor in the application, contrary to the Code of Federal Regulations,

37 CFR 1.31 and 1.32. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

The change of correspondence address filed May 21, 2008 cannot be accepted because it was not signed by a registered attorney of record. See MPEP §§ 601.03 and 405. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the Joan Olszewski at (571) 272-7751.

/Liana Walsh/  
Liana Walsh  
Petitions Examiner  
Office of Petitions

cc: Benedict O'Mahoney  
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